

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Kouriockein Vann,

ANSWER

Plaintiff,

08 CV 4012 (LAK)(RLE)

-against-

Warden – Hughes; Captain McGeechie;
Deputy Murdock; ADW (Deputy Warden
for Security) Bailey; Officer Goode
Simmons; Commissioner of Corrections of
N.Y.C – Martin Horn

Defendants.

----- X

Defendants Mark Hughes, Cathreen Bitting-Bailey, Monique Goode-Simmons and New York City Department of Corrections Commissioner John B. Mattingly (“defendants”), by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, as and for their answer to the Complaint dated March 28, 2008 (“Complaint”) herein, respectfully allege as follows:

1. Deny the allegations set forth in paragraph “II D” of the Complaint, except admit that plaintiff purports to proceed as stated therein and that plaintiff spoke to Diana Sang, and deny information or knowledge sufficient to form a belief as to the truth of the allegation that plaintiff attempted to speak with “Insp. Carreras” and “ADW – Bailey,” deny information or knowledge sufficient to form a belief as to the truth of the allegation that plaintiff spoke with “Deputy Warden (Ms. Gill),” and deny information or knowledge sufficient to form a belief as to the truth of the allegation that plaintiff spoke to “Capt. Hackett” regarding the location of plaintiff’s allegedly confiscated property.

Deny information or knowledge sufficient to form a belief as to the truth

of the allegations set forth in the addendum to paragraph "II D" of the complaint, except admit that plaintiff purports to proceed as stated therein.

2. Deny the allegations set forth in paragraph "III" of the Complaint.
3. Deny the allegations set forth in paragraph "IV A." of the Complaint.
4. Admit the allegations set forth in paragraph "IV B." of the Complaint.
5. Deny information or knowledge sufficient to form a belief as to the truth of the allegation set forth in paragraph "IV C" of the Complaint.
6. Deny the allegations set forth in paragraph "IV D." of the Complaint.
7. Deny the allegations set forth in paragraph "IV E." of the Complaint.
8. Deny the allegations set forth in paragraph "IV F. 2." of the Complaint, except deny information or knowledge sufficient to form a belief as to the truth of the allegation that plaintiff attempted to speak with defendant Hughes, defendant McGeachy and "Deputy (tour) Murdock.."
9. In response to the allegation set forth in paragraph IV G." to the Complaint, defendants repeat here the response set forth in ¶ 8 supra.

AS AND FOR A FIRST DEFENSE:

1. The Complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND DEFENSE:

2. Defendants have not violated any of plaintiff's rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A THIRD DEFENSE:

3. At all times relevant to the acts alleged in the Complaint, defendants acted reasonably, properly, lawfully and in good faith.

AS AND FOR A FOURTH DEFENSE:

4. Plaintiffs' claims are barred in whole or in part by the applicable provisions set forth within New York General Municipal Law § 50-e.

AS AND FOR A FIFTH DEFENSE:

5. The defendants were not personally involved in any alleged constitutional violation.

AS AND FOR A SIXTH DEFENSE:

6. The defendants are qualifiedly immune from suit under federal law.

AS AND FOR A SEVENTH DEFENSE

7. Plaintiff failed to satisfy his duty to mitigate his damages.

FOR A EIGHTH DEFENSE

8. Any injuries alleged in the Complaint were caused, in whole or in part, by plaintiff's own culpable or negligent conduct.

FOR A EIGHTH DEFENSE

9. Plaintiff failed to exhaust his administrative remedies.

WHEREFORE, defendants respectfully request judgment dismissing the Complaint and all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
August 7, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street, Room 2-194
New York, New York 10007
(212) 788-8119

By: s/
Martin Bowe (MB 8042)
Assistant Corporation Counsel

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ANSWER

MICHAEL A. CARDOZO
Corporation Counsel of the City of New York
Attorney for Defendants
100 Church Street, Room 2-194
New York, N.Y. 10007

Of Counsel: Martin Bowe
Tel: (212) 788-0878

Due and timely service is hereby admitted.
New York, N.Y. August 7, 2008 Esq.
Attorney for

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

Kouriockein Vann,

-against-

Plaintiff,

DECLARATION OF SERVICE

08 CV 4012 (LAK)(RLE)

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DECLARATION OF SERVICE BY FIRST CLASS MAIL

I, Martin Bowe, declare under penalty of perjury that on August 7, 2008, I served the annexed Answer by defendants dated August 7, 2008; upon plaintiff by depositing a copy of the same, enclosed in a properly addressed wrapper, in a Mailbox to:

Kourlockein Vann
[REDACTED]
09-09 Hazen Street
East Elmhurst, New York 11370

Dated: New York, New York
August 7, 2008

Martin Bowe